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Attorneys for Plaintiff Temeka Robinson

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TAMEKA ROBINSON, an individual,

Plaintiff,

v.

VSP LABS, INC., a Delaware corporation and
DOES 1 through 20, inclusive,

Defendants.

Case No. 2:22-CV-01087-WBS-JDP

**JOINT STIPULATION TO REMAND
THE CASE TO STATE COURT AND
REQUEST FOR DISMISSAL OF FMLA
CLAIMS**

Complaint Filed: May 6, 2022
Removal Filed: June 24, 2022
Trial Date: None set

*Assigned for all purposes to
Hon. Judge William B. Shubb*

Pursuant to Eastern District of California Local Rules 143 and 144 and Federal Rules of Civil Procedure 41(a)(1)(A)(ii), Plaintiff Temeka Robinson ("Plaintiff") and Defendant Vision Service Plan (erroneously named as VSP Labs Inc.) ("Defendant") (collectively referred to as the "Parties") jointly stipulate as follows:

WHEREAS, on May 06, 2022, Plaintiff filed her Complaint in the Sacramento County Superior Court against Defendant;

WHEREAS, on June 24, 2022, Defendant removed the matter to this Federal District Court for the Eastern District of California on the grounds that there is original, federal question jurisdiction based on the fourth, fifth and sixth claims for relief, which Defendant claims arise under the Family and Medical Leave Act ("FMLA");

WHEREAS, Defendant filed its answer to Plaintiff's Complaint in Sacramento Superior Court;

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2 WHEREAS, Plaintiff wishes to dismiss any and all FMLA claims in this action against
3 Defendant, with prejudice, pursuant to Romoland School Dist. v. Inland Empire Energy Center,
4 LLC, 548 F.3d 738, 748 (9th Cir. 2008) (“Federal Rule of Civil Procedure 41 allows plaintiffs
5 voluntarily to dismiss some or all of their claims against some or all defendants.”);

6 WHEREAS, Plaintiff reserves the right to pursue all state law claims, including those
7 based on the California Family Rights Act (“CFRA”) in state court;

8 WHEREAS, the Parties hereby agree that, contingent on Plaintiff’s dismissal of any and all
9 FMLA claims against Defendant in this action with prejudice, there will no longer be any causes
10 of action arising under federal law in this matter;

11 WHEREAS, the Parties agree to a waiver of all costs and attorneys’ fees associated with
12 this dismissal with prejudice;

13 WHEREAS, the parties agree to remand this action to the Sacramento Superior Court to
14 adjudicate Plaintiff’s remaining state law claims;

15 WHEREFORE, IT IS HEREBY STIPULATED by Plaintiff and Defendant, through their
16 respective attorneys of record, that:

- 17 1. Plaintiff’s FMLA claims against Defendant are hereby dismissed with prejudice;
- 18 2. Plaintiff reserves the right to pursue all state law claims, including those based on
19 the California Family Rights Act (“CFRA”);
- 20 3. The Parties agree to a waiver of all costs and attorneys’ fees associated with this
21 dismissal with prejudice;
- 22 4. The Parties agree to remand this action to the Sacramento County Superior Court.

23 **IT IS SO STIPULATED.**

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1 DATED: October 5, 2022

KENNADAY LEAVITT PC

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3 By: _____

4 KELLI M. KENNADAY
5 ALLISON M. NYE
6 Attorneys for Defendant,
7 VISION SERVICE PLAN, erroneously sued as
8 VSP LABS, INC.

9 DATED: October 5, 2022

FALAKASSA LAW, P.C.

10 By: _____


11 JOSHUA S. FALAKASSA
12 Attorneys for Plaintiff,
13 TAMEKA ROBINSON
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ORDER

The Court, having reviewed the Parties' Stipulation above, and good cause therefore appearing, hereby orders:

1. Plaintiff's FMLA claims against Defendant are hereby dismissed with prejudice;
2. The Parties agree to a waiver of all costs and attorneys' fees associated with this dismissal with prejudice;
3. Plaintiff may pursue all state law claims, including those based on the California Family Rights Act ("CFRA") in state court;
4. This action is hereby REMANDED to the Superior Court of the State of California, in and for the County of Sacramento.

Dated: October 5, 2022



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

IT IS SO ORDERED.

Dated: _____, 2022

Judge William B. Schubb